State Of New Mexico

Forty-Ninth Annual Report

October 1, 1993

Public Utility Commission

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New Mexico Public Utility Commission

Forty-Ninth Annual Report

Historical Status Report

81st Fiscal Year

July 1, 1992 - June 30, 1993

Future Directions and Suggestions

July 1, 1993 - June 30, 1994

New Mexico Public Utility Commission

BRUCE KING, *Governor*

LAWRENCE B. INGRAM, *Chairman*
S. PETER BICKLEY, *Commissioner*
MARY M. McINERNY, *Commissioner*

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October 1, 1993

The Honorable Bruce King
Governor
State of New Mexico
State Capitol Building
Santa Fe, New Mexico 87503

Dear Governor King:

It is a pleasure to present the Forty-Ninth Annual Report of the New Mexico Public Utility Commission. This Report sets forth certain suggestions for the best interests of the State, including the protection of both utility consumers and investors, as well as the encouragement and development of industry within New Mexico.

As you can tell, the workload continues to increase as we see dramatic changes occurring in the energy industry, and expect even more aggressive activities during the next year.

Sincerely,

LAWRENCE B. INGRAM
Chairman

LBI/dlp

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Mission Statement

The New Mexico Public Utility Commission is charged by the Public Utility Act with the regulation of the rates and services provided by investor-owned natural gas, electric, water and sewer utilities and by rural electric cooperatives in New Mexico. The Commission also regulates the rates of water and sanitation districts. At this time there are currently 96 utilities under the Commission's jurisdiction. The Commission's duties include setting utility rates, setting standards for acceptable service, approving construction of additional generating plant and transmission facilities, approving the issuance of securities by public utilities, the hearing and settlement of complaints, and ensuring compliance with Commission orders and rules. The Commission must balance the interests of utility customers and utility shareholders to assure adequate, efficient and reasonable services are available to the public at fair, just and reasonable rates; that construction, development and extension of utility services is done without unnecessary duplication or waste; and that the utilities are able to attract investment capital for the plants and facilities which are to render these services.

The Commissioners

Lawrence B. Ingram, Chairman: Democrat; born January 17, 1932, in Roswell, New Mexico; Baylor University (BS, Chemistry), Cambridge University in England; aid to Congressman Tom Morris (1958-65), advanceman for Kennedy-Johnson (1960) and for Johnson (1964), consultant to Sargent Shriver in implementing Peace Corps into public law; dairy and banking executive, consultant to trusts and estates, venture capitalist; Secretary of New Mexico Human Services Department (1979-82); introduced "Wednesday's Child" T.V. program to place foster children usually considered difficult to adopt; government affairs representative for health insurance industry; civic activist; presently serves on the Salvation Army Board of Directors, the Santa Fe Community College Foundation Board of Directors, and the Board of Directors of New Mexico Comprehensive Health Insurance Pool; member of St. John's United Methodist Church; serves as a national panel member of the American Arbitration Association; is a member of the Public Advisory Committee of the Grand Canyon Visibility Transport Commission; a member of the National Association of Regulatory Utility Commissioners' Finance and Technology Committee; serves as that Committee's liaison with the Staff Subcommittee on Computers; serves as the NARUC liaison with the National Regulatory Research Institute as board member; and was president of the Downtown Santa Fe Kiwanis Club; assumed Commissionership March 18, 1991, current term ends January 15, 1997; married (Barbara), four children.

S. Peter Bickley, Commissioner: Born September 27, 1931, in El Paso, Texas; Colorado School of Mines, Harvard Business School (MBA); Lieutenant in U.S. Corps of Engineers (1954-56), Engineer for Shell Oil Company (Exploration and Production) (1953-65), Manager for The First Church of Christ Scientist, in Boston (1966-80), Officer and Director of Calvin Exploration, Inc., in Santa Fe (1981-85); Society of Petroleum Engineers; a member of the National Association of Regulatory Utility Commissioners' Committee on Natural Gas; Capital City AARP. Assumed Commissionership February 17, 1987, current term ends January 15, 1995.

Mary M. McInerny, Commissioner: Born April 25, 1950, in San Antonio, Texas; Florida State University (BS, JD); Associate and Shareholder Attorney with the firm of White, Koch, Kelly & McCarthy, P.A. (1987-91); Director, Financial Institutions Division of Regulation and Licensing (1984-87); Member of Board of Directors of New Mexico Mortgage Finance Authority and Industrial and Agricultural Finance Authority; Assistant Attorney General (1980-84); Assistant State Attorney for the Fourth Judicial Circuit of Florida (1977-80); Attorney for the Florida Senate Legislative Services (1976-77); former Vice chair of Natural Gas Marketing and Transportation Committee, Natural Resources Energy and Environmental Law Section of ABA; currently Vice chair of Electric Power Committee of same ABA Section; and member of NARUC Energy Conservation Committee. Assumed Commissionership April 16, 1991, current term ends January 15, 1999.

Significant Events

Rio Rancho Utilities Rate Cases (Case Nos. 2439/2440)

Rio Rancho Utilities Corporation filed applications for rate increases for both its sewer and water utility operations on February 6, 1992. RRUC acquired Albuquerque Utility Corporation's utility assets in 1990. A major issue was RRUC's request to include the amount paid to purchase AUC's assets above the depreciated original cost of the water and sewer systems in rate base as acquisition adjustments. The Commission rejected this request.

RRUC requested an increase in its sewer revenues from $2.67 million to $5.24 million. This requested $2.57 million increase would increase residential rates about 98%.

Instead, the Commission allowed a $1.29 million increase.

RRUC requested a $2.42 million increase in its water revenues from $5.41 million to $7.83 million. Instead, the Commission allowed a $1.2 million increase.

Agreement Approved in Otero Case (Case No. 2426)

In October 1992, the Commission approved an agreement between Otero County Electric Cooperative, the Commission Staff and a group representing customers who live in Alto, New Mexico, which allows customers to choose if they want a demand meter to calculate their electric bills.

The approved Stipulation would allow cooperative customers with higher consumption levels to choose between being billed based on their peak consumption or to use a rate which varies during each 24-hour period.

The agreement provided for two rate classifications for residential customers. Residential customers who use more than 1000 kilowat hours per month and who have a potential capacity to use more than 10 kilowatts will have two special metering options. They then may elect to use either a seasonal time-of-use rate or a demand rate.

Special metering customers who choose the demand meter option will pay the same customer charge and KWH charge as other residential customers, but demand customers will pay an additional charge per KW for all KW over 10 KW's. Customers who choose the time-of-use option will pay a rate which varies depending on the season and time of day that electricity is used.

The Commission specified that customers can choose the rate they want to use by giving thirty days notice to the cooperative and that customers who do not indicate a preference will automatically be put on the time-of-use rate schedule.

Commission Approves Alternative Energy Rule (Case No. 2476)

The Commission approved a rule in March which requires electric utilities to provide their customers with information on alternate electric generating systems when they ask for new electric service.

It is hoped the rule could reduce costs to some utilities and their ratepayers by avoiding some expenses associated with long line extensions that normally end up in rates.

Under the rule, electric utilities are required to provide applicants for electric service a list of photovoltaic, geothermal and wind energy system suppliers located in New Mexico, including members of the New Mexico Solar Energy Industrial Association.

Smaller customers will be provided a free estimate of the cost of the alternative if the cost of a line extension is fifteen times greater than the estimated annual revenues to be made on that extension. A small service customer is defined as requiring less than 25 kilowatts at any one time.

Photovoltaic cells are a renewable energy technology that produces electricity directly from the sun, therefore electric distribution or transmission lines would not have to be constructed by the utility. Geothermal systems uses heat sources produced from the underground.

The Commission decided to implement the rule on an experimental basis for three years with a final report due April 30, 1996, after receiving comments from utilities and the general public.

IRP Groups Formed

Integrated Resource Planning (IRP) represents an entirely new way in which the PUC regulates utilities. IRP considers both supply-side resources and demand-side management (DSM) to obtain an optimal, least-cost mix of energy resources to meet consumers' energy needs. IRP creates a "level playing field" where the PUC can evaluate utility resources, alternative/renewable energy sources, environmental externalities, and energy conservation techniques. Development of IRP is supported by the New Mexico State Energy Policy.

Development of IRP rules for electric, natural gas, and water utilities is taking place in Cases 2383, 2449, and 2450, respectively. Working Groups composed of 125 volunteers from utilities, energy producers, consumer organizations, environmental groups, private citizens, and other State agencies have been formed to develop draft IRP rules. The Working Groups are expected to submit their draft rules to the Commission by the end of October, 1993. As part of the rulemaking procedure, the Commission will seek additional comment and testimony from interested parties prior to issuing the final rule.

New Mexico State Energy Policy Developed

During 1992 the Commission and its Staff participated in the further development of the State Energy Policy. In December 1992, the Energy Policy Advisory Council made several recommendations.

- Continued support for the development of IRP, including the use of Working Groups to maximize public involvement.

- Environmental externalities should be incorporated for all energy sources. An Externalities Task Force (established by the Energy, Minerals and Natural Resources Department in cooperation with the PUC) should develop appropriate policies and values regarding externalities.
- To re-establish New Mexico as a leader in renewable energy development, a Solar Repowering Project to be managed by a Renewable Energy Development Authority was recommended.
- New Mexico should substantially increase funding for energy efficiency and renewable energy programs and should take a leadership role in advocating the revision of national and State building codes.
- To the extent practicable when considering any action affecting energy policy, decisions should reflect market-based incentives that consider all internal and external costs, rather than "command and control" requirements.

Retail Wheeling Issue Debated

Retail wheeling allows a retail electricity user to buy electricity from a producer other than the local utility. The producer may be another utility or an independent power producer located somewhere else on the electric grid. The local utility remains involved in the transaction by providing distribution and/or transmission lines and service to enable the power to flow.

During the legislative session several bills addressed the issue of retail wheeling. While no laws were enacted, an interim legislative committee was organized to study retail wheeling issues.

As part of the IRP rule development, a Special Projects Working Group was formed to address complex issues related, but not essential to the development of an IRP rule. This Working Group will address retail wheeling issues and provide a report to the Commission.

PNM's Ojo Line Extension Project (Case No. 2382)

On March 11, 1991, PNM filed for Commission approval and authorization to construct the Ojo Line Extension (OLE) Project. The OLE Project has stirred significant public controversy because the 345 KV line, as proposed, will traverse a portion of the Jemez Mountains.

PNM and other proponents of the OLE Project testified that the transmission line is the best technical solution to PNM's transmission constraints and the least costly while the extensive and various mitigation measures to be employed will assure that the transmission line will not unduly impair the environment. Opponents of the OLE Project testified that the OLE Project should not be built if other solutions to PNM's transmission constraints exist, even if more costly, in order to avoid building a transmission line in the Jemez Mountains.

In January of 1993 PNM announced it was going to take a fresh look at the OLE project. This fresh look would consider any alternative not previously discussed. In July of 1993 PNM announced that if found no reasonable alternatives in its fresh look.

This case is presently awaiting a Hearing Examiner's Recommended Decision after the conclusion of a 55 day evidentiary hearing in August of 1992. The Commission will make its final decision after the Recommended Decision.

PUC Diversification Authority Expanded

SB 545 clarified and expanded the Commission's ability to obtain necessary books and records of a utility's diversified activities. The passage of this bill will enable the Commission to protect ratepayers from any adverse consequences of utility diversification.

SB 545 amended Section 62-3-3 by expanding the definition of "affiliated interest" and amended Section 62-6-17 by clarifying our ability to obtain records from a utility regarding its non-utility investments and our rights regarding confidential material.

Mediation and Arbitration Rule Proposed

On April 19, 1993, the Commission issued a Notice of Proposed Rulemaking (NOPR) in which it proposed numerous changes to NMPUC Rule 110, which contains the rules governing general practice and procedure before the Commission. The proposed changes to those rules constitute the first wholesale evaluation and revision of Rule 110 in more than five years. The NOPR also proposed related revisions to NMPUC Rule 410.

Among the most significant changes proposed for Rule 110 would be new rules allowing for arbitration of customer complaints against utilities without going through the complicated and costly formal hearing process. A similar proposal would eliminate the requirement that individuals and small water and sewer utilities be represented by an attorney in Commission adversarial proceedings.

Other proposals would allow the filing of some legal documents in electronic (e.g., computer diskette) form. These

proposals are considered steps toward reducing the paper burden on utilities and the Commission.

Connected to the NOPR's proposed changes to the Rule 110 complaint, mediation and arbitration provisions is the proposed deletion of certain portions of Rule 410. The proposed deletion would remove from Rule 410 a complaint procedure somewhat parallel to that now found in Rule 110. The NOPR states that because the proposed revisions to the Rule 110 complaint, mediation and arbitration provisions would essentially duplicate the Rule 410 complaint procedure, the latter would no longer be necessary.

Written comments on the proposed changes to Rules 110 and 410 have been received, and final action by the Commission is pending.

Investigation of PNM's Diversification Affiliate Transactions (Case No. 2326)

On April 5, 1990, Staff petitioned the Commission to investigate why a 1989 Settlement Agreement by PNM with a group of lending institutions did not require prior Commission approval (a Class II transaction). On April 18, 1990, the Commission docketed a formal investigation into this matter. This case was later consolidated with two similar cases, Case Nos. 2328 and 2345, concerning PNM's diversification activities. Formal hearings commenced on July 1, 1991.

Both Staff and the Attorney General conducted extensive discovery into PNM's affiliated transactions. Both reached virtual unanimity in their conclusions that PNM had engaged in at least 15 Class II transactions without first receiving prior approval from the Commission. After hearings and extensive legal briefing on the issues, the Hearing Examiner, on May 15, 1992, found PNM had improperly engaged in 14 Class II transactions and recommended the imposition of a $250,000 civil penalty on PNM for its failure to obtain the necessary approvals before engaging in these transactions. The Hearing Examiner also recommended PNM be prohibited from collecting from ratepayers approximately $1.5 million of costs incurred by PNM in the case.

The Commission's Final Order was issued on December 21, 1992. For the most part, the Commission agreed with the Hearing Examiner's recommendations. However, the Commission concluded that PNM had improperly engaged in 15 Class II transactions, and the Commission disagreed with the Hearing Examiner's recommended penalty. The Commission concluded that PNM should be penalized in the amount of $540,000. The Hearing Examiner's recommendation that PNM's ratepayers be held harmless from the approximately $1.5 million in attorneys fees and other costs incurrd by PNM in connection with the case was approved by the Commission.

As required by the Commission's Order, PNM paid its $540,000 in civil penalties on February 4, 1993.

Decertification of San Juan Generating Station (Case No. 2408)

On August 9, 1991, PNM petitioned the Commission for the necessary approvals and authorizations to allow for the sale of 50 megawatts of generating capacity from San Juan Unit Four to the City of Anaheim, California. The 50 megawatts was a portion of excess generating capacity excluded from PNM's current rates in Case No. 2146, Part II. Although excluded from PNM's current rates, the Commission has maintained jurisdiction over the capacity.

Intervention in Case No. 2408 was sought by the Attorney General, the New Mexico Industrial Energy Consumers (NMIEC), the City of Albuquerque, and the County of Los Alamos. Staff and the Attorney General filed testimony on the issues raised by the petition. On February 20, 1992, Staff and the other parties filed an uncontested stipulation purporting to resolve the issues in the case. The stipulation requested decertification of PNM's entire 130 megawatt interest in San Juan Unit Four and the establishment of a price cap for the next 130 megawatts of generating capacity PNM would seek to include in rates. A hearing on the stipulation began February 28, 1992.

On May 11, 1992, the Hearing Examiner issued a Recommended Decision recommending the Commission not to accept the stipulation in its entirety. The Hearing Examiner recommended decertifying only the 50 megawatts to be sold to Anaheim and further recommended changes in the pricing and/or timing of the price cap for the next 80 megawatts of generating capacity. Staff, PNM, NMIEC, and the Attorney General all took exception to the recommended changes to the stipulation.

The Commission's Order on Stipulation, issued October 5, 1992, declined to adopt the stipulation. The Commission also rejected the Hearing Examiner's alternative recommendation that the stipulation be modified in certain ways so that the proposed 50 megawatts sale to Anaheim could be authorized. Instead, the Commission returned the case to the Hearing Examiner with instructions that only the proposed Anaheim sale be considered in this docket. The participants were encouraged to reach a settlement that "achieves a balancing of burdens and benefits between ratepayers and shareholders along the lines discussed in this Order."

After further proceedings, the Hearing Examiner issued a Certification of Second Stipulation on March 1, 1993. That

second Certification recommended the approval of a second stipulation which proposed the decertification and regulatory abandonment of 50 megawatts of generating capacity from the San Juan Unit Four for the the purpose of selling that capacity to Anaheim under the terms and conditions set out in the stipulation. Among other things, the stipulation provided that PNM would pass 48% of the gain from the sale (i.e., $5 million) on to its customers through fuel clause credits by the end of 1993. In addition, ratepayers would receive a greater allocation of PNM's off-system sales revenues as a result of the Anaheim sale.

On March 15, 1993, the Commission entered its Final Order Approving Second Stipulation, which adopted and approved both the stipulation and the Hearing Examiner's Certification thereof.

Santa Fe Water Issues

Two cases involving Sangre de Cristo Water Company continued before the Commission. Case 2428 involves a complaint filed by the New Mexico Corrections Department and the New Mexico Department of Military Affairs requesting an order from the Commission requiring SDCW to extend water service to various facilities situated outside the Santa Fe city limits. Intervention in the case was extensive and included the City of Santa Fe, the County of Santa Fe, the Institute of American Indian Arts, and the Archdiocese of Santa Fe. The City of Santa Fe opposes the extension request while other intervenors have sought a similar service extension order from the Commission. The case is awaiting a Recommended Decision of the Hearing Examiner before final disposition by the Commission.

Case 2443 began as a request by Northwest Water Company for a Certificate of Public Convenience and Necessity to construct and operate a water system to serve the Las Campanas subdivision northwest of Santa Fe. Northwest proposed to provide service to the area via a lease of SDCW facilities. The Commission Staff opposed the application on the grounds that a new, small developer-owned system should not be created where an existing and established utility (SDCW) is ready, willing, and able to serve the area. Northwest sought leave to withdraw its application when the developers opted to form a water cooperative instead of a Commission regulated public utility. The issue of whether the development should be allowed to lease SDCW facilities is still before the Commission. Hearings are scheduled on that issue in the fall, 1993.

Gas Company of New Mexico's Gas Contract Settlements:

In September 1990, Gas Company of New Mexico ("GCNM") filed an application, docketed as Case No. 2353, for a prudence review of six producer settlements involving MDL-403 Costs and Producer Take-or-Pay Costs. GCNM claimed it was entitled to recover approximately $77.6 million from ratepayers. GCNM later revised its request to recover approximately $69.6 million.

On October 20, 1992, the Parties filed a Stipulation Regarding Discounted Transactions Associated with Contract Reformation. This stipulation resolved the issues related to the costs and revenues associated with discount rates associated with gathering, processing and transportation services provided by GCNM, Sunterra Gas Gathering Company and Sunterra Gas Processing Company.

On January 5, 1993, the parties filed a Stipulation that would resolve the issues related to the total amount of dollars to be recovered by GCNM through Rate Rider No. 8. Pursuant to the Stipulation, GCNM is allowed to recover $60.5 million, without interest, over a 5-year period. The 2183 Stipulation, which established the framework for recovery of costs at issue in this proceeding, would have allowed GCNM to include interest over the recovery period.

On March 29, 1993 the Commission issued a Final Order Approving Certification of Stipulations filed in October 1992 and January 1993.

Natural Gas Vehicles:

In 1992 Governor King signed House Bill No. 404 which amends Section 62-3-4 of the Public Utility Act to exclude from the definition of a public utility "any person not otherwise a public utility. . . .who engages in the retail distribution of natural gas for vehicular fuel. . . ." This Bill also enacted a new Section 62-6-26.1, to grant the authority to the Commission to approve or otherwise allow a public utility to offer clean fuel rates, tariffs or other programs that will encourage and promote the use of clean fuels for vehicles. The new Section allows clean fuel rates to be set lower than a correspondiU3 service rate for which 21custtier would otherwise qualify. House Bill No. 404 established the regulatory framework for the retail distributiod of natural gas as a vehicle fuel.

Prior to the enactment of H.B. 404, the Commission issue Fa Notice of Inquiry ("NOI") seeking public input and comments be a variety of issues relating to the use of natural gas as a vehicle fuel and the role regulation should play, if any, in this activity. The Commission issued its NOI on November 8, 1991.

On December 15, 1992 Gas Company of New Mexico ("GCNM") filed an Application with the Commission seeking approval to revise its natural gas vehicle rate schedule to implement a 5-year Natural Gas Vehicle Program ("NGV Program"). The Application was suspended and docketed as Case No. 2485. The primary components of the NGV Program include: Infrastructure Development; Conversion Incentives; Public Information and Education; and Demonstration. The program involves the installation of 62 compressed natural gas fueling stations throughout GCNM's service area and rebates, on a sliding scale, to fleet owners who convert up to 15 vehicles to compressed natural gas. In testimony filed in support of the Application, GCNM plans to support the NGV Program through the proposed increase in the natural gas vehicle rate and tax credits resulting from the National Energy Policy Act.

On August 3, 1993 the Commission held a hearing on GCNM's Application. The Hearing Examiner's Recommended Decision and a Commission Final Order in this case are pending.

Commission Changes its Name

The Public Service Commission officially changed its name to the Public Utility Commission in June as a result of legislation passed in the 1993 New Mexico Legislature. The name change was proposed to alleviate some confusion caused by similarities between the Commission's name and the Public Service Company of New Mexico, which it regulates and to reflect more accurately its statutory role.

Sanction Ceiling Increased

The New Mexico Legislature increased the size of fines the Public Utility Commission can levy on public utilities who violate Commission rules to $100,000 per violation. The previous limit had been $10,000 per violation.

The Commission had requested the authority because it felt stiffer fines were warranted in some cases. For example, in fining Public Service Company of New Mexico the Commission found that the electric utility had committed 60 violations of its rules for activities related to PNM's diversification activities in the 1980's. In that case the PUC fined PNM a record $540,000.

Supreme Court Cases

El Vadito de los Cerrillos Water Association (Case Nos. 2313, 2365)

On August 10, 1993, the Supreme Court of New Mexico issued an opinion (Docket Nos. 19,596 and 19,835) vacating the Commission's Final Orders in Case Nos. 2313 and 2365. The Commission's Final Order in Case No. 2313 concerned Cerrillos Water and Irrigation Company's (CWIC) application to abandon utility service and transfer its assets to El Vadito de los Cerrillos Water Association, a Sanitary Projects Act assocation. The Commission conditioned its approval of the application by requiring El Vadito to grant association membership to all of CWIC's customers, including people living in the rural area surrounding Cerrillos who hauled water from the village to their homes. El Vadito declined to grant membership to the waterhauler customers, and the application was not granted. The Commission's Final Order in Case No. 2365 concluded that El Vadito was a public utility because it was selling water to non-member waterhaulers.

The Court concluded that El Vadito was not a public utility, because its sale of water to a small group of non-member waterhaulers did not manifest a readiness to serve an indefinite public. The Court ruled that the Commission did not have jurisdiction to require El Vadito to grant membership to the waterhaulers as a condition of approving El Vadito's application. However, the Court required El Vadito to offer membership to the waterhaulers. The Court reasoned that the people living in the rural area surrounding a village are part of the rural community, and consequently entitled to membership under the Sanitary Projects Act.

Hobbs Gas Company (Case Nos. 2369 and 2454)

On June 22, 1993, the Supreme Court of New Mexico issued an opinion (Docket Nos. 20,558 and 20,759) vacating the Commission's Final Orders in Case Nos. 2369 and 2454. The Commission had required Hobbs to refund nearly $2 million of overcollections to its customers. The Commission also required that after May 1, 1992, Hobbs stop charging its customers for gas it receives for free. The Court ruled that the Commission could not require Hobbs to make retroactive refunds in view of prior Commission approval of the mechanism (a purchased gas adjustment clause) through which Hobbs charges its customers for gas it received for free. The Court concluded that the Commission could only prospectively require Hobbs to stop charging for free gas, and could only require refunds for overcollections made after May 1, 1992.

PNM's Petition for Declaratory Order Regarding Article XV of the Albuquerque City Charter (Case No. 2371)

The City of Albuquerque partially appealed the Commission's Final Declaratory Order in Case No. 2371 (Supreme Court Docket No. 20,254). The appeal involved just one of the several issues decided by the Commission in that case. The lone issue on appeal was the Commission's decision that municipalities cannot negotiate or procure rates for any retail utility customer other than the municipal corporation itself. The City of Albuquerque argued that Section 62-6-15 of the Public Utility Act allows cities to negotiate for utility rates and services on behalf of all city inhabitants. The Commission, PNM and El Paso Electric Company filed briefs opposing the City's position and stating that the City's interpretation of Section 62-6-15, both individually and in the context of the entire Public Utility Act, is inconsistent with the law of public utility regulation in New Mexico and in other jurisdictions.

After oral argument on August 3, 1992, the Supreme Court handed down its Opinion on April 21, 1993. The Court overturned the Commission's Final Declaratory Order, holding that Section 62-6-15 does authorize a municipality to enter into contracts for public utility rates not only to itself for municipal purposes, but also to its inhabitants. At the same time, the Court declared that "we seek to make clear that our holding in no way infringes upon or diminishes the Commission's general and exclusive power to establish rates and conditions for the service rendered by a utility certificated under the [Public Utility Act] to provide that service within the municipality's boundaries." The Court vacated and annulled the Commission's Order and remanded it to the Commission for further proceedings consistent with the Court's Opinion.

On remand, and after considering pleadings filed by EPE, the City of Albuquerque and the Commission Staff, the Commission issued a Revised Final Declaratory Order on August 2, 1993. That Revised Order readopted and reissued the Commission's earlier Final Declaratory Order to the extent that it was consistent and in conformity with the decision of the Supreme Court.

Other Court Cases

El Paso Electric Company Bankruptcy (Chapter 11)

El Paso Electric Company (EPE) filed a voluntary petition for bankruptcy on January 8, 1992, in the United States Bankruptcy Court for the Western District of Texas in Austin (Case No. 92-10148). EPE's bankruptcy petition was filed under Chapter 11 of the U.S. Bankruptcy Code, which allows corporations to continue their operations under bankruptcy court supervision while they attempt to propose and gain acceptance of a plan to satisfy their creditors. EPE's bankruptcy rivals that of Public Service Company of New Hampshire in the size and scope of a utility bankruptcy. EPE and Public Service Company of New Hampshire are the largest utilities to be in bankruptcy since the Great Depression of the 1930's.

Citing its exclusive and plenary regulatory jurisdiction over EPE as the administrative agency charged by New Mexico law with protecting the public interest through regulation of electric utilities, the Commission intervened in EPE's bankruptcy on January 29, 1992, due to the Commission's "strong regulatory interest" in the bankruptcy proceedings. Since its intervention in EPE's bankruptcy case, the Commission has assigned several members of its professional staff, and has retained outside legal counsel, to assist the Commission in its participation in the bankruptcy case and in its monitoring of EPE's affairs while in bankruptcy.

The bankruptcy court extended considerably the period in which EPE has an exclusive right to file a proposed reorganization plan. During that time, EPE submitted three successively revised reorganization plans. Each of these plans proposed that EPE emerge from bankruptcy on a "stand-alone" basis, i.e., that it be permitted to be owned and operated as it had been prior to bankruptcy albeit with its debt restructured. No agreement on any of these plans was reached among the regulators and creditors participating in the bankruptcy case, and none of these plans were presented to the bankruptcy court for approval.

EPE filed a Third Amended Reorganization Plan on May 5, 1993. Among other things, that plan proposed that EPE be acquired by the Central and South West Corporation (C&SW), a registered public utility holding company which currently owns utilities in Texas, Oklahoma, Louisiana and Arkansas. The bankruptcy court approved the disclosure statement pertaining to EPE's Third Amended Reorganization Plan on August 25, 1993, scheduled a creditors' vote on that plan for November 15, 1993, and set a hearing on whether the plan should be confirmed for December 6, 1993. The bankruptcy court also denied the motion of Southwestern Public Service Company that it be permitted to file and propose an alternative reorganization plan.

In the event EPE'S Third Amended Reorganization Plan is confirmed by the bankruptcy court, both EPE and C&SW would then have to seek regulatory approvals from this Commission and from the Public Utility Commission of Texas, the Federal Energy Regulatory Commission, the United States Securities and Exchange Commission and the United States Nuclear Regulatory Commission. In New Mexico, both EPE and C&SW would have to obtain appropriate NMPUC authorizations for the sale and acquisition of EPE,

and for any proposed rate change which may be a part of the sale of EPE to C&SW.

It is estimated that it will take approximately two years for EPE and C&SW to obtain necessary regulatory approvals from all jurisdictions.

Timberon Bankruptcy

In 1990, the Commission intervened in the bankruptcy proceeding of Timberon Water Company (No. 11-89-02737 RR), a water utility under Commission jurisdiction. Without seeking Commission approval, Timberon had pledged assets and water rights to the First National Bank of Alamogordo as collateral for a note taken out by its parent corporation, North American Developments, and its presidents, Johnny F. Mobley. The bank sought to foreclose on the water system when the parent and president defaulted on the note. Timberon, along with its parent, filed for protection under Chapter 11 of the bankruptcy code on September 28, 1989.

On September 27, 1990, the United States Bankruptcy Court for the District of New Mexico entered an Order finding that the water system was part of the debtor's estate subject to Commission regulation and that a perpetual easement existed on the water system and appurtenant water rights for the use of the utility's customers. On March 26, 1991, the Trustee for the debtor's estate filed a Motion to Sell Free and Clear of Liens which would allow the sale of the system, subject to Commission approval, without encumbrance. Also, on March 26, the Trustee with the Concurrence of the Commission and First National Bank, filed a Motion to Compromise a Controversy which would settle all outstanding issues in the adversary proceeding. A Settlement Agreement was executed by the Trustee, Commission, and First National Bank whereby the Bank attached a security interest to the proceeds of any sale of the water system but withdrew its claim to the system proper. The perpetual dedication of the water system to utility service was reaffirmed as was the requirement of Commission approval of any sale. Both March 26 motions were approved by the Bankruptcy Court, effectively ending the litigation.

On September 28, 1992, the Commission filed a Motion For An Order Requiring Trustee To Entertain An Offer. The Timberon Water and Sanitation District (TWSD) made an offer to purchase the water system, but the bank and Trustee did not respond. Eventually, settlement negotiations were held and an agreement was reached into in which TWSD would purchase the water system.

On June 16, 1993, the Trustee filed a Motion to Approve Sale Free and Clear of Lien, asking the Court for approval to sell the water system to TWSD. On July 19, 1993, the Court entered an Order Approving Sale Free and Clear of Liens. The bankruptcy case now awaits an Order dismissing the case. Pending at the Commission is a related application requesting abandonment of utility service by the Timberon Water Company and sale of the water system to TWSD. A hearing on that application will be held on October 6, 1993.

Commission Organizational Units

The Public Utility Commission is organized into seven technical sections and three administrative support sections, excluding the Commissioners. The eight technical sections are: Commission Counsel, Hearing Examiners, Staff Counsel, Economics, Electrical Engineering, Water, Gas and Sewer Engineering, Accounting and Compliance. The three administrative support sections are: Administrative, Informations Systems and Operations. A brief description of the functions each section performs follows:

Commission Counsel: Act as general legal counsel to the Commission, providing legal advice to the Commissioners. Their duties include researching and drafting Commission orders and opinions as well as defending them in court appeals. Commission Counsel draft and evaluate legislation. They also provide assistance to the Executive Director in contract matters and intra-agency and inter-governmental legal matters.

Hearing Examiners: Conduct proceedings as presiding officers when appointed to do so by the Commission. They establish procedures and details for the conduct of proceedings, ensure that a full and adequate record is established, make rulings on procedural matters, conduct hearings, certify any stipulations negotiated by parties to the Commission, and make recommended decisions to the Commission including findings of fact and conclusions of law on all assigned cases.

Staff Counsel: Provides legal advice to the staff, assists in development of staff's positions in Commission cases and interpretations of the Public Utility Act, represents the staff in adversarial hearings before the Commission and represents Commission on appeals or other court proceedings. Assists in the review and implementation of legislation, rules and regulations. Provides legal advice to staff with respect to personnel, contracts, budgets, etc.

Economics: Evaluates financial markets and cost of capital issues; conducts rate of return analysis; cost of service studies and rate design analysis; makes supply and demand forecasts and production costs studies; reviews various filings; and submits expert testimony on these issues as necessary.

Electrical Engineering: Performs analysis and provides experts testimony on issues related to electric utilities, including plant design, specifications, capacity, reliability, depreciation rates, utility expenses and certificates of public convenience and necessity. Develops rate base, cost of service, revenue requirements, computer simulations of system operations and costs. Assists in order interdisciplinary analysis as required. Develops and implements staff policy regarding rates, filing requirements and procedures. Evaluates various utility filings including fuel and plant costs, affiliate transactions, etc. Provides technical support to Tariff and Compliance section.

Water, Gas and Sewer Engineering: Performs analysis and provides expert testimony on issues related to water, gas and sewer utilities, including plant design, specifications, capacity, reliability, depreciation rates, utility expenses and certificates of public convenience and necessity. Develops rate base, cost of service, revenue requirements, computer simulations of system operations and costs. Assists in other interdisciplinary analysis as required. Develops and implements staff policy regarding rates, filing requirements and procedures. Evaluates various utility filings including fuel and plant costs, affiliate transactions, etc. Provides technical support to Tariff and Compliance section.

Accounting: Audits the books and records of jurisdictional utility companies. Evaluates accounting procedures utilized by companies and submits recommendations to the Commission via expert prefiled testimony. Advises the Commission on the implications of new accounting releases and standards. Verifies the accuracy and completeness of accounting information submitted by utility companies. Ensures that utilities' cost of service accounting entries are just and reasonable.

Administrative: Performs and supervises preparation of Commission annual budget; also responsible for budget control, accounts payable, accounts receivable, insurance, contracts, inventory, and purchasing. In addition it has overall responsibility for all personnel matters.

Information Systems: Responsible for the operation and maintenance of the Commission's computer and information system resources. Program planning, development and implementation is coordinated to support staff case assignments and management objectives.

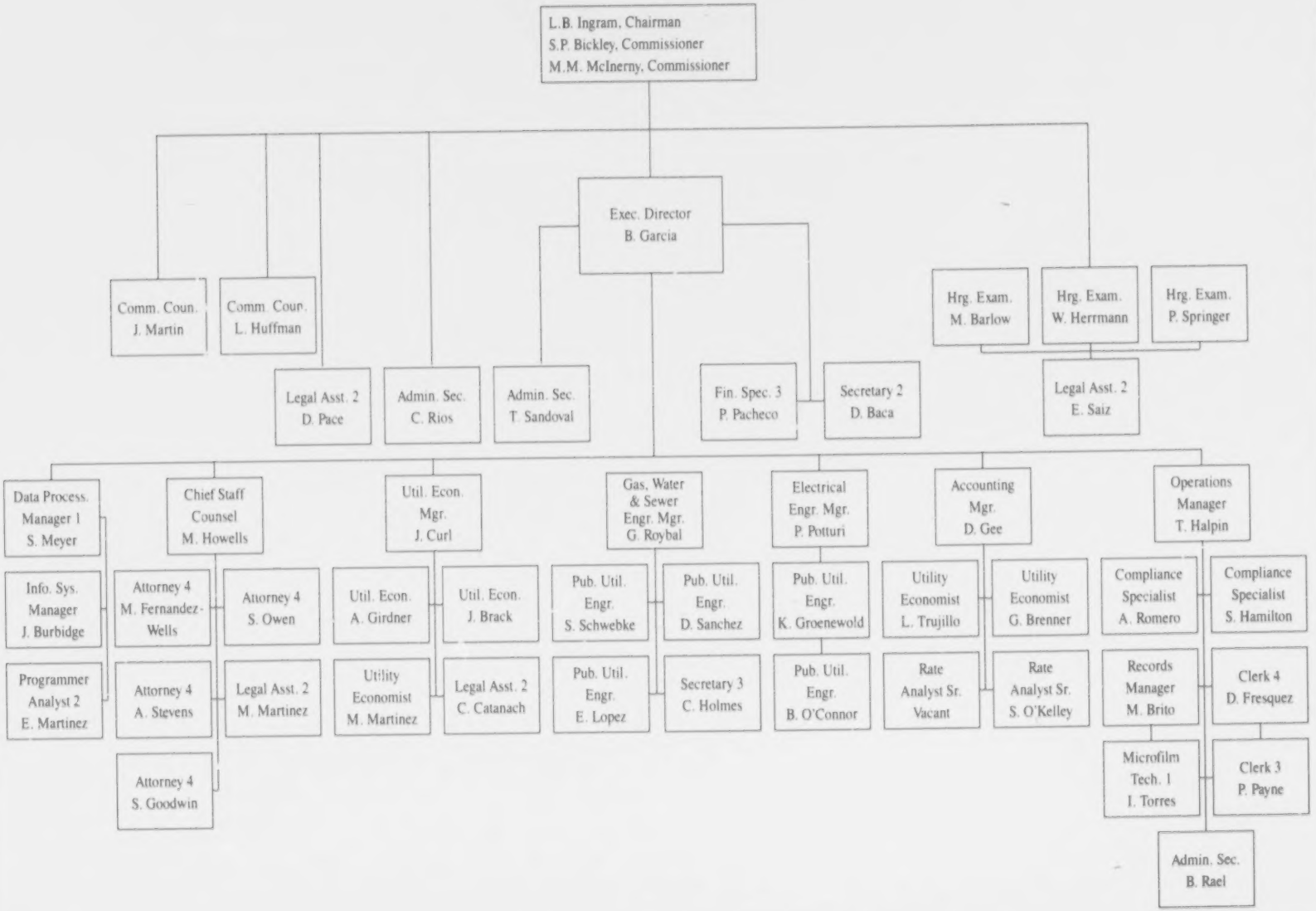
Operations:

Records Managements: Maintains Commission case record files and general files. It also receives rates, rules and forms filed by utilities; maintains Commission docket; and publishes and distributes daily pleadings log and matters pending log.

Tariff and Compliance: Ensures compliance with Commission rules, regulations and policy. It monitors utilities regarding timely filing and compliance of service Rules; provides information, education and provides assistance to consumers who are unable to resolve billing and service problems; testifies on issues as necessary.

NMPUC ORGANIZATIONAL CHART

Effective 7-31-93



STATE OF NEW MEXICO
PUBLIC UTILITY COMMISSION
STATEMENT OF RECEIPTS AND DISBURSEMENTS*

81st Fiscal Year
July 1, 1992 through June 30, 1993

RECEIPTS	
General Fund Appropriation	$2,961.3
Special Appropriation	535.0
Inspection and Supervision Fees	8,375.3
Filing Fees	1.4
Sales of Misc. Documents and Publications	9.0
Penalty and Interest	549.6
Total Receipts	$12,431.6
DISBURSEMENTS	
Personal Services	$1,751.6
Employee Benefits	529.4
Travel	19.3
Maintenance and Repairs	31.6
Supplies	32.5
Contractual Services	464.4
Operating Costs	165.6
Capital Outlay	419.8
Out-of-State Travel	32.2
Total Disbursements	$3,446.4
Excess of Receipts over Disbursements	$8,985.2
DEDUCT	
Transfer to State General Fund	$8,935.3
Budgetary Reversion to State General Fund	49.9
Total Deduction	$8,985.2
BALANCE, June 30, 1993	$ 0.0

*Thousands of dollars

Public Utilities Regulated by the New Mexico Public Utility Commission

Investor-Owned Electric Utilities

El Paso Electric Company
Public Service Company of New Mexico
Southwestern Public Service Company
Texas-New Mexico Power Company

Rural Electric Cooperative Utilities

Central New Mexico Electric Cooperative, Inc.
Central Valley Electric Cooperative, Inc.
Columbus Electric Cooperative, Inc.
Continental Divide Electric Cooperative, Inc.
Duncan Valley Electric Cooperative, Inc.
Farmers' Electric Cooperative, Inc.
Jemez Mountains Electric Cooperative, Inc.
Kit Carson Electric Cooperative, Inc.
Lea County Electric Cooperative, Inc.
Mora-San Miguel Electric Cooperative, Inc.
Navopache Electric Cooperative, Inc.
Northern Rio Arriba Electric Cooperative, Inc.
Otero County Electric Cooperative, Inc.
Plains Electric Generation & Transmission Cooperative, Inc.
Rio Grande Electric Cooperative, Inc.
Roosevelt County Electric Cooperative, Inc.
Sierra Electric Cooperative, Inc.
Socorro Electric Cooperative, Inc.
Southwestern Electric Cooperative, Inc.
Springer Electric Cooperative, Inc.

Investor-Owned Water Utilities

Agua Fria Development Company
Alto Lakes Water Corporation
Angel Fire Services Corporation
Boles Acres Water System
Caprock Water Company
CBG Maintenance, Inc.
Desertaire Water Company
Dutchman's Hill Water Company
Echo Valley Water Company
Edgewood Water Utility Company, Inc.
Eileen Acres Service Corporation
El Dorado Utilities, Inc.
Homestead Water Company
Independent Utility Company
Indian Hills Water Company
Jornada Water Company
Lake Section Water Company
Mesa Development Center
Monterey Water Company, Inc.
Moongate Water Company
National Utility Company, Inc.
New Mexico-American Water Company
New Mexico Utilities, Inc.
New Mexico Waterworks
Quemado Waterworks
Rancho Ruidoso Village Water Company
Reserve Waterworks
Rio Grande Utility Corporation
Rio Rancho Utilities Corporation
River Valley View Water Works
Sandia Peak Utility Company
Sangre de Cristo Water Company
Santa Teresa Services Company
South Hills Water Company
Sunlit Hills of Santa Fe, Inc.
Thunder Mountain Water Company
Timberon Water Company, Inc.
Valle Vista Water Utility Company

Investor-Owned Natural Gas Utilities

Gas Company of New Mexico
Hobbs Gas Company
Jal Gas Company
Raton Natural Gas Company
Zia Natural Gas Company
Capitan-Carrizozo Natural Gas Association - Limited Jurisdiction given to NMPSC in Case No. 1897.

Water and Sanitation Districts

Alpine Village Water & Sanit. Dist.
Anthony Water & Sanit. Dist.
Bluewater Water & Sanit. Dist.
El Prado Water & Sanit. Dist.
El Valle de los Ranchos Water & Sanit. Dist.
Gamerco Townsite Water & Sanit. Dist.
Lakeshore City Water & Sanit. Dist.
North Ranchos De Placitas Water & Sanit. Dist.
Pena Blanca Water & Sanit. Dist.
Ranchos de Placitas Water & Sanit. Dist.
San Rafael Water & Sanit. Dist.
Sun Valley Sanit. Dist.
Thoreau Water & Sanit. Dist.
Twining Water & Sanit. Dist.
Williams Acres Sanit. Dist.
Yah-Ta-Hey Water & Sanit. Dist.

Investor-Owned Sewer Utilities

Alto Lakes Water Corporation
Angel Fire Services Corporation
Eileen Acres Service Corporation
New Mexico Utilities
Rio Grande Utility Corporation
Rio Rancho Utilities Corporation
River Valley View Water System
Sandia Peak Services, Inc.
Santa Teresa Services
Valle Vista Water Utility
Valley View Association

MATTERS CONSIDERED BY THE PUBLIC UTILITY COMMISSION BETWEEN JULY 1, 1992 AND JUNE 30, 1993

Case No.	Company	Date Filed	Type of Proceeding	Disposition	Date
2326	Public Service Company of New Mexico	04/05/90	11/02/89 Settlement Agreement (Cons. 2345)	Final Order	12/21/92
2351	Gas Company of New Mexico	08/20/90	Advice Notice No. 467	Final Order	01/19/93
2353	Gas Company of New Mexico	09/21/90	Recovery of MDL-403 Costs	Final Order	03/29/93
2360	New Mexico Public Utility Commission	10/18/90	A.G. Complaint/NMPUC Rule 550	Final Order	08/17/92
2367	Gas Company of New Mexico	11/29/90	Complainant/WNG vs GNM	Final Order	10/05/92
2370	Southwestern Public Service Company	12/10/90	Variance/NMPUC Rule 410	Pending	
2382	Public Service Company of New Mexico	03/11/91	Ojo Line Extension	Pending	
2383	New Mexico Public Utility Commission	03/21/91	I.R.P. Electric Utilities	Pending	
2397	Jemez Mountains Electric Cooperative	06/03/91	Mgmt. Investigation	Pending	
2407	Raton Natural Gas Company	08/07/91	PGAC Continuation Filing NMPUC Rule 640	Final Order	12/07/92
2408	Public Service Company of New Mexico	08/09/91	Sell A 10.04% Undivided/San Juan Gen.	Final Order	03/15/93
2409	Public Service Company of New Mexico	08/12/91	Street Light Order C.O.A.	Dismissed	11/30/92
2411	Columbus Electric Cooperative	08/19/91	Proposed Acct. Treatment of Retirement	Final Order	11/30/92
2418	Picacho Hills Utility Company	09/29/91	CCN/Application	Pending	
2422	Gas Company of New Mexico	10/15/91	CCN/Variance NMPUC Rule 420.5	Final Order	08/17/92
2424	PNM vs Central New Mexico Electric Coop.	10/23/91	Complainant/Service Territory	Final Order	08/03/92
2426	Otero Electric Cooperative, Inc.	11/04/91	Demand Rates w/Motion	Final Order	10/05/92
2427	New Mexico Public Utility Commission	11/08/91	Natural Gas Vehicle	Pending	
2428	Correc/Military vs S.D.C.	11/12/91	Complaint/Line Extension	Pending	
2429	Public Service Company of New Mexico	11/15/91	Diversification Plan	Final Order	01/19/93
2434	Jemez Mountains Electric Cooperative	01/23/92	PG Variance	Final Order	08/03/92
2437	Public Service Company of New Mexico	01/27/92	Franchise Change/Rule 530 Variance	Final Order	04/05/93
2438	Eileen Acres Services Corp. (Sewer)	01/28/92	Complaint/Eileen Acres Service Corp.	Final Order	09/21/92
2439	Rio Rancho Utilities Corporation	02/06/92	Sewer Rate Increase - Advice Notice No. 4	Final Order	12/15/92
2440	Rio Rancho Utilities Corporation	02/06/92	Water Rate Increase - Advice Notice No. 4	Final Order	12/15/92
2442	Zia Natural Gas Company	02/17/92	Show Cause/CCN Construction	Final Order	04/05/93
2443	Northwest Water Company	02/18/92	CCN/Approval for Securities	Pending	
2444	Public Service Company of New Mexico	02/21/92	PVNGS/Lease Purchase	Final Order	08/24/92
2445	Gas Company of New Mexico	02/28/92	Suspending/PGAC Factor	Pending	
2446	Timberon Water Company	02/26/92	Order to Show Cause	Dismissed	04/19/93
2447	Gas Company of New Mexico	02/26/92	Complainant/Mina Ortega	Final Order	09/21/92
2448	E.P.N.G. vs Jal Gas Company	03/19/92	Complaint/Billing	Final Order	05/24/93
2449	New Mexico Public Utility Commission	03/30/92	I.R.P. Natural Gas Utilities	Pending	
2450	New Mexico Public Utility Commission	03/30/92	I.R.P. Water Utilities	Pending	
2453	Gas Company of New Mexico	04/20/92	Purchased Gas Adjustment/Investigation	Final Order	06/21/93
2454	Hobbs Gas Company	05/18/92	Order to Show Cause	Final Order	07/24/92
2455	New Mexico Public Utility Commission	05/18/92	Amending NMPUC Rule 110.134	Final Order	07/06/92
2456	Southwestern Public Service Company	05/22/92	Financing	Final Order	07/06/92
2457	El Paso Electric Company	05/27/92	Complaint/Line Extension	Pending	
2458	Jal Gas Company	06/04/92	PGAC Gas Cost Factor & Filing	Final Order	04/19/93
2460	Alto Lakes Water Corporation	06/16/92	Sewerage Rate Increase	Final Order	11/30/92
2461	Plains Electric Generation & Trans.	06/30/92	Debt Cost Adjustment	Final Order	12/21/92
2462	Hobbs Gas Company	07/01/92	Rate Case/Compliance PUC Case #2369	Final Order	04/30/93
2463	Raton Natural Gas Company	07/22/92	Gas Cost Factor	Final Order	08/03/92
2464	Sierra Electric Cooperative, Inc.	07/06/92	Advice Notice No. 37 New Service Rates	Final Order	03/01/93
2465	Public Service Company of New Mexico	08/04/92	Declaratory Order	Final Order	11/30/92
2466	Sandia Peak Utility Company	08/05/92	Financing	Final Order	09/08/92

MATTERS CONSIDERED BY THE PUBLIC UTILITY COMMISSION BETWEEN JULY 1, 1992 AND JUNE 30, 1993

Case No.	Company	Date Filed	Type of Proceeding	Disposition	Date
2467	Navopache Electric Cooperative, Inc.	08/18/92	Advice Notice No. 43 Rate of Return	Final Order	02/15/93
2468	Texas-New Mexico Power Company	09/04/92	Financing	Final Order	10/19/92
2469	Public Service Company of New Mexico	09/04/92	Financing	Final Order	10/19/92
2470	Mesa Development Center, Inc.	09/23/92	Financing	Final Order	12/07/92
2471	Roosevelt County Electric Cooperative	09/24/92	Fuel & Purchased Power Cost Adjustment	Final Order	03/15/93
2472	New Mexico Public Utility Commission	10/05/92	Rulemaking	Pending	
2473	Roosevelt County Electric Cooperative	10/07/92	Financing	Final Order	11/02/92
2474	Zia Natural Gas Company	10/09/92	Transportation Services	Final Order	04/05/93
2475	Southwestern Public Service Company	10/13/92	Financing	Final Order	11/13/92
2476	New Mexico Public Utility Commission	10/19/92	Amending NMPUC Rule 420.10	Final Order	03/29/93
2477	Sangre de Cristo Water Company	10/29/92	Water Utility Service From SDC	Final Order	05/24/93
2478	El Paso Electric Company	11/02/92	Ojo - EPE Issues	Pending	
2479	Edgewood Water Company	11/13/92	Class II Transaction	Final Order	05/03/93
2480	Gas Company of New Mexico	11/16/92	Exemption from NMPUC Rule 640.8	Final Order	03/29/93
2482	Public Service Company of New Mexico	11/23/92	Financing	Final Order	03/01/93
2483	Anthony Water Works	12/11/92	Abandonment/Rates	Final Order	05/24/93
2484	New Mexico-American Water Company	12/14/92	Account Treatment	Pending	
2485	Gas Company of New Mexico	12/15/92	Rate No. 39/Gas Vehicles Program	Pending	
2486	Gas Company of New Mexico	12/16/92	Variance NMPUC Rule 640	Final Order	03/29/93
2487	Navopache Electric Cooperative, Inc.	12/29/92	Financing	Final Order	02/01/93
2488	Lea County Electric Cooperative, Inc.	01/04/93	Complaint/LCE vs SPS	Pending	
2489	Lea County Electric Cooperative, Inc.	01/04/93	Complaint/LCE vs Texaco Exploration	Pending	
2490	Plains Electric Generation & Trans.	01/22/93	Financing	Pending	
2491	Southwestern Public Service Company	01/26/93	Joint Request for Investigation	Pending	
2492	Public Service Company of New Mexico	02/01/93	Variances	Pending	
2493	Central New Mexico Electric Cooperative	02/04/93	Continuation of a FPPCAC	Final Order	04/19/93
2494	Santa Teresa Service Company	02/15/93	Investigation/Rates/Accounting Operation	Pending	
2496	Public Service Company of New Mexico	02/16/93	Abandonment/46 KV Line	Pending	
2497	Echo Valley Water Company, Inc.	02/19/93	Divestiture/Termination	Pending	
2498	Texas-New Mexico Power Company	02/19/93	Economic Development Rate Schedule	Final Order	03/03/93
2499	El Paso Electric Company	04/30/93	Change in Rates Advice Notice No. 157	Final Order	04/30/93
2500	Public Service Company of New Mexico	02/24/93	Financing	Final Order	03/29/93
2501	Duncan Valley Electric Cooperative	02/24/93	Variance/NMPUC Rule 550	Final Order	06/08/93
2502	Texas New Mexico Power Company	02/24/93	Financing	Pending	
2504	Plains Electric Generation & Trans.	04/01/93	Approval Purchased Power	Pending	
2505	El Paso Electric Company	04/01/93	Hollman/WSMR Rates	Pending	
2506	New Mexico Public Utility Commission	04/19/93	NMPUC Rule 110 & 410	Pending	
2507	El Dorado Utilities, Inc.	04/14/93	Declaratory Order	Pending	
2508	Gas Company of New Mexico	04/20/93	Continued Use of its PGAC	Pending	
2510	Southwestern Public Service Company	05/19/93	Class II	Pending	
2511	New Mexico Public Utility Commission	05/24/93	NMPUC Rulemaking 120.4	Pending	
2512	New Mexico Public Utility Commission	06/08/93	Energy Policy Act of 1992	Pending	
2513	Southwestern Electric Cooperative, Inc.	06/04/93	Financing	Pending	
2514	Texas-New Mexico Power Company	06/04/93	Financing	Pending	
2515	Public Service Company of New Mexico	06/13/93	Financing	Pending	
2516	New Mexico Public Utility Commission	06/21/93	Open Meetings Act	Final Order	06/21/93
2517	Springer Electric Cooperative, Inc.	06/18/93	Financing	Pending	

FUTURE DIRECTIONS

The Commission is anticipating an unusually busy year with a number of major initiatives expected to be filed as a result of the changing face of utility regulation in the state. Also, the implementation of federal legislation, such as the Energy Policy Act of 1992, the Clean Air Act and the Safe Drinking Water Act, is expected to cause additional impact on the Commission's docket.

Several cases are expected to be filed in 1993 or 1994 stemming from the reorganization of El Paso Electric Company. Also, EPE's Rate Moderation Plan, which has had stable rates since 1987 is scheduled to expire in December 1994. This will probably result in the filing of a new rate case.

Public Service Company of New Mexico will also be filing several cases as it improves its financial condition through consolidation and reorganization. In addition, PNM has indicated it will be filing a rate change case early next year.

Texas-New Mexico Power Company has recently filed a full-fledged rate case, as has Rio Rancho Water and Sewer Utilities. In May, 1993 the City of Santa Fe voted to purchase the water system from Sangre de Cristo Water Company and it is expected that a case will be filed with the Commission to approve the transfer before the end of the year.

The Integrated Resource Planning (IRP) Legislative Committee is scheduled to continue meeting at various sites around the state and the NMPUC will assist the committee in its deliberations, especially as it considers the retail wheeling issue.

A contract has been awarded to establish a computer network and develop a plan to implement imaging for the Commission. The new PC network will replace the eight-year-old Data General network. This should be a major step toward the Commission's goal of giving its Staff sufficient tools to monitor and analyze utility company actions and filings. It is also hoped that filings by small water and sewer companies will be further simplified. Lastly it will move the Commission toward developing a system to accept electronic filing of documents by all utilities.

In addition, it is hoped that a Commission initiative encouraging mediation and arbitration of issues will result in more cases settled outside the formal hearing process.

Appendices

Statutory Duties and Authority

The New Mexico Public Utility Commission is charged by the Public Utility Act with the regulation of the rates and service provided by gas, electric, water and sewer utilities. NMSA 1978, Sections 62-3-1, et seq. The Public Utility Act became law in New Mexico in 1941. N.M. Laws 1941, Ch.85. The Act created a 3-person Commission appointed by the Governor, with the approval of the Senate, for staggered 6-year terms. NMSA 1978, Sections 62-5-1, -5-3. The Commission's name was changed to the Public Utility Commission on June 18, 1993. See, N.M. Laws 1993, Ch. 282.

Municipally-owned utilities are not subject to Commission jurisdiction under the Act unless the voters of the municipality vote for regulation. NMSA 1978, Sections 62-6-5. At the end of the period covered by this report, no municipality was subject to Commission regulation. The Commission once had the authority to disapprove the rates and service regulations of an electric municipal utility operating more than 5 miles beyond a municipal boundary. NMSA 1978, Section 3-24-9. The 1987 Legislature, however, repealed this authority. N.M. Laws 1987, Ch.170.

County-owned utilities, are subject to Commission regulation with the following exceptions. Any utilities owned by an H class county are exempt from Commission regulation. Class B counties which own water and sewer utilities are also exempt from Commission regulation. N.M. Laws 1993, Ch. 308. County revenue bonds issued to acquire or improve a utility require Commission approval. NMSA 1978, Section 4-62-1(I); see also, N.M. Laws 1993, Ch. 308, Section 2. H class counties and municipalities issuing revenue bonds for the acquisition of a utility are required to obtain the approval of the Commission for such bonds. NMSA 1978, Section 3-23-3.

Rural electric cooperatives initially came within Commission jurisdiction in 1961. Laws 1961, Ch. 89. That law was found unconstitutional in 1966; however, jurisdiction was reestablished in 1967. Community Public Service Co. v. N.M. Public Service Comm'n, 76 N.M. 314, 414 P.2d 675 (1966) cert. denied, 385 U.S. 933 (1966); Laws 1967, Ch. 96.

In 1985, the Legislature partially deregulated rural electric cooperatives, small water companies, and water and sanitation districts. NMSA 1978, Sections 62-8-7(F), -7.1; NMSA 1978, Sections 73-21-16(L), -55. As a result, rural electric cooperatives may change rates without prior Commission approval unless ratepayers protest to the Commission, in which case the Commission holds hearings prior to rate implementation. Similarly, water companies whose annual revenues are less than $500,000 can increase rates without prior Commission approval unless the increase is more than 50% or ratepayers protest to the Commission.

The rates, but not the service, of water and sanitation districts had been subject to Commission prior approval under the Water and Sanitation District Act. N.M. Laws 1967, Ch. 187. Now, district rates and charges are only subject to Commission approval upon protest of district taxpayer-electors. Section 73-21-55. The governing board of a district can also elect to place the district under Commission regulation of all of its rates, service and financing under the Public Utility Act. Id. Otherwise, the Commission has only the limited authority described above under the Water and Sanitation District Act.

In 1987, the Legislature expanded the Commission's duties by charging it with regulation of rates and service of sewer utilities. Previously unregulated, these utilities' rates and service now are regulated like those of water utilities. N.M. Laws 1987, Ch. 52.

The Commission in 1989 was given the authority by the Legislature to allow economic development and load retention rates by electric and gas utilities. Such rates are allowable for the purpose of preventing the loss of customers or attracting new customers or additional load. Electric utilities may qualify for such rates only when they have excess capacity as defined by the statute. N.M. Laws 1989, Ch. 5, Section 1; NMSA 1978, Section 62-6-26. N.M. Laws 1989, Ch. 5, Section 2; NMSA 1978, Section 62-8-6.

The 1991 Legislature gave the Commission jurisdiction to determine certain territorial disputes between municipalities (the legislation restricts this term to the City of Albuquerque) which have not elected to come under Commission jurisdiction, and water and sewer utilities regulated by the Commission. N.M. Laws, 1991, Ch. 143. This authority is in addition to the Commission's ability to resolve territorial disputes involving public utilities and/or mutual domestic water consumer associations. N.M. Laws 1990, Ch. 95; NMSA 1978, Section 62-9-1. See also, N.M. Laws 1991, Ch. 121, Section 2; NMSA 1978, Section 1.2-9-2.

In the natural gas area, Commission authority was changed in 1984 and 1985. The 1984 Legislature passed, and the 1985 Legislature continued, Commission authorization to regulate the price charged for intrastate gas transportation by public utilities and to enforce the legislative mandate for such transportation. N.M. Laws 1984, Ch. 123, Section 7; N.M. Laws 1985, Ch. 8 Section 1, codified at NMSA 1978, Section 62-6-4.1. The 1985 Legislature also allowed the expiration of the Commission's authority to regulate certain intrastate wellhead gas prices under the 1984 New Mexico Natural Gas Price Protection Act. See, N.M. Laws 1984, Ch. 123, Section 15.

The 1987 Legislature amended the Commission's statutory authority over intrastate gas transportation. The amendments prohibit gas utilities from marketing and brokering natural gas and gives the Commission authority to assess a civil penalty against violators of the statute's requirements for gas transportation. N.M. Laws 1987, Ch. 93; NMSA 1978, Section 62-6-4.1.

In 1992, the Legislature authorized the Commission to approve clean fuel rates "in order to encourage, develop or promote the development and use of natural gas and other clean fuels used as vehicular fuels." Clean fuel rates are rates "set at a lower level than the corresponding service rate or tariff for which a customer would otherwise qualify." N.M. Laws 1992, Ch. 58, Section 10; NMSA 1978, Section 62-6-26.1.

A 1982 amendment to the Public Utility Act changed the method of judicial review of final orders of the Commission. NMSA 1978, Sections 62-11-1 to -7. The amendment provides for direct appeal from proceedings under the Act to the State Supreme Court by any party to the proceedings. Prior to the amendment, judicial review was through a petition to the District Court with an appeal lying to the State Supreme Court from the District Court judgment. N.M. Laws 1965, Ch. 289.

The 1993 Legislature increased the maximum amount of the civil penalties which the Commission may impose for violations of the Public Utility Act or Commission orders. The range of possible penalties for such violations is now from not less than $100 to not more than $100,000 for each offense. The previous maximum penalty was $10,000. N.M. Laws 1993, Ch. 220, Section 2; NMSA 1978, Section 62-12-4.

A public utility must have prior approval by the Commission for the issuance of stocks and issuance of long term securities. NMSA 1978, Sections 62-6-6, -8, -8.1; see also, N.M. Laws 1991, Ch. 110. No person may operate as a utility without obtaining from the Commission a Certificate of Public Convenience and Necessity which is, in effect, a license to do business that only the Commission may issue. NMSA 1978, Sections 62-9-1. A certificate is also required for certain extensions of service territory and certain additions of plant and facilities. NMSA 1978, Sections 62-9-1 to -3. Since 1971, the Commission must approve the location of large electric generating stations and transmission lines from an environmental standpoint. NMSA 1978, Section 62-9-3. The Commission also has the authority to examine the books, records and accounts of public utilities and, under certain conditions, those of public utility affiliates. N.M. Laws 1993, Ch. 351, Section 3; NMSA 1978, Sections 62-6-17, 18.

In 1982, a law was passed which placed a moratorium on diversification activities by public utilities. N.M. Laws 1982, Ch. 109. An interim legislative committee was established to study the diversification issue, and the Commission was ordered to adopt regulations governing diversified activities by November 30, 1982. The Commission complied with this requirement by promulgating and adopting what is now known as Rule 450. In 1983, the Legislature allowed the moratorium on diversification activities to expire. Id. The Commission now oversees and, under certain circumstances, must give prior approval to proposed diversification by a public utility. NMSA 1978, Section 62-6-19; N.M. Laws 1993, Ch. 351, Section 2.

The 1983 Legislature also amended the Act to provide the Commission with authority to require wheeling by electric utilities upon complaint by another electric utility. NMSA 1978, Section 62-6-25. The Commission is required to apply federal standards in ruling on each complaint. Wheeling is defined as the use of transmission facilities of one utility system to transmit power of and for another utility system. In 1983, the Act was also amended to make it more difficult to receive a stay of a Commission order on appeal. NMSA 1978, Section 62-11-6.

TABLE 1 RATE REQUESTS

	CASE NO.	COMPANY	TYPE SERVICE	DATE FILED	FINAL ORDER	AMOUNT REQUESTED	AMOUNT GRANTED	RATE BASE	RoRb %	RoE %
1	2353	GNM	G	09/21/90	03/29/93	78,300,000	57,400,000	n/a	n/a	n/a
2	2426	OCE	E	02/10/92	10/05/92	1,003,007	832,083	17,502,797	9.28%	
3	2439	RRS	S	02/06/92	12/15/92	2,568,168	1,287,858	14,421,815	9.75	10%
4	2440	RRU	W	02/06/92	12/15/92	2,414,891	1,200,863	21,786,246	9.75	10%
5	2460	ALW	W	06/16/92	11/30/92	25,023	25,023	n/a	n/a	n/a
6	2462	HGC	G	07/01/92	06/01/93	419,177	(59,172)	4,143,086	(1.04)	10%
7	2464	SEC	E	07/06/92	03/01/93	131,126	131,126	3,116,918	8.29%	
8	2467	NAV	E	08/18/92	02/15/93	61,672	61,672	n/a	8.63%n/a	
9	2495	PGT	E	02/10/93	07/12/93	Dismissed				

RULE 540

1. Central New Mexico Electric Cooperative, Inc.—Rates became effective w/o protest, 6/23/93
2. Kit Carson Electric Cooperative, Inc.—Rates became effective w/o protest, 6/19/93
3. Sierra Electric Cooperative, Inc.—See Case 2464)
4. Lea County Electric Cooperative, Inc.—Rates became effective w/o protest, 1/03/93
5. Central New Mexico Electric Cooperative, Inc.—Rates became effective w/o protest, 1/08/93
6. Continental Divide Electric Cooperative, Inc.—Rates became effective w/o protest, 1/08/93
7. Southwestern Electric Cooperative, Inc.—Rates became effective w/o protest, 10/25/93
8. Northern Rio Arriba Electric Cooperative, Inc.—Rates became effective w/o protest, 10/14/93
9. Central New Mexico Electric Cooperative, Inc.—Rates became effective w/o protest, 6/28/92

RULE 770

1. CBG Maintenance Incorporated—Rates became effective w/o protest, 7/01/93
2. Alto Lakes Water Company—Rates became effective after receiving one protest, 2/28/93
3. Santa Teresa Services—Rates became effective after receiving one protest, 1/18/93
4. Echo Valley Water—Rates became effective after receiving two protests, 11/02/92

RULE 810

1. Anthony Water and Sanitation District—Rates became effective w/o protest, 1/01/93

RULE 970

1. Santa Teresa Services—Rates became effective after receiving one protest, 1/18/93

New Mexico Public Utility Commission

TABLE 2
Investor-Owned Electric Utility Statistics

Customer Class		Residential			Other			Total		
Calendar Year		1990	1991	1992	1990	1991	1992	1990	1991	1992
Total Average Number of Customers		417,781	425,692	436,475	60,021	60,802	62,150	477,802	486,494	498,625
Sales (Thousands of Kwh)		2,657,387	2,728,823	2,833,694	9,671,317	9,483,601	10,248,736	12,328,704	12,212,424	13,082,430
Gross Revenues		$232,010,809	$240,979,236	$248,918,583	$545,199,912	$546,327,402	$575,822,377	$777,210,721	$787,306,638	$824,740,960
Avg. Annual Kwh per Customer	(1)	6,361	6,410	6,492	161,132	155,975	164,903	25,803	25,103	26,237
Avg. Annual Bill per Customer	(2)	$555.34	$566.09	$570.29	$9,083.49	$8,985.35	$9,265.04	$1,626.64	$1,618.33	$1,654.03
Avg. Monthly Bill per Customer	(3)	$46.28	$47.17	$47.52	$756.96	$748.78	$772.09	$135.55	$134.86	$137.84
Avg. Gross Revenue per Kwh Sold	(4)	$0.0873	$0.0883	$0.0878	$0.0564	$0.0576	$0.0562	$0.0630	$0.0645	$0.0630

Notes: 1) Sales Kwh/Average number of customers
2) Gross Revenues/Average number of customers
3) Average Annual Bill per Customer/12 months
4) Gross Revenues/Sales KWH

New Mexico Public Utility Commission

TABLE 3
Rural Electric Cooperative Utility Statistics

Customer Class		Residential			Other			Total		
Calendar Year		1990	1991	1992	1990	1991	1992	1990	1991	1992
Total Average Number of Customers		112,009	113,754	116,283	26,814	28,073	28,177	138,823	141,827	144,460
Sales (Thousands of Kwh)		622,927	635,246	654,024	1,877,855	1,650,543	1,861,898	2,500,782	2,285,789	2,515,922
Gross Revenues		$63,859,238	$67,011,970	$68,517,845	$112,535,896	$112,859,818	$120,710,483	$176,395,135	$179,871,788	$189,228,328
Avg. Annual Kwh per Customer	(1)	5,561	5,584	5,624	70,033	58,795	66,079	18,014	16,117	17,416
Avg. Annual Bill per Customer	(2)	$570.13	$589.10	$589.23	$4,196.91	$4,020.23	$4,284.01	$1,270.65	$1,268.25	$1,309.90
Avg. Monthly Bill per Customer	(3)	$47.51	$49.09	$49.10	$349.74	$335.02	$357.00	$105.89	$105.69	$109.16
Avg. Gross Revenue per Kwh Sold	(4)	$0.1025	$0.1055	$0.1048	$0.0599	$0.0684	$0.0648	$0.0705	$0.0787	$0.0752

Notes: 1) Sales Kwh/Average number of customers
2) Gross Revenues/Average number of customers
3) Average Annual Bill per Customer/12 months
4) Gross Revenues/Sales KWH

New Mexico Public Utility Commission

TABLE 4
Gas Utility Statistics

Customer Class		Residential			Other			Total		
Calendar Year		1990	1991	1992	1990	1991	1992	1990	1991	1992
Total Average Number of Customers		324,182	331,668	346,318	33,835	33,897	34,970	358,017	365,565	381,288
MCF Sales		25,424,689	25,425,403	27,510,411	22,874,731	19,177,798	18,868,815	48,299,420	44,603,201	46,379,226
Gross Revenues		$144,409,515	$144,534,056	$132,456,184	$91,533,082	$78,940,843	$62,462,301	$235,942,597	$223,474,899	$194,918,485
Avg. Annual MCF per Customer	(1)	78	77	79	676	566	540	135	122	122
Avg. Annual Bill per Customer	(2)	$445.46	$435.78	$382.47	$2,705.28	$2,328.84	$1,786.17	$659.03	$611.31	$511.21
Avg. Monthly Bill per Customer	(3)	$37.12	$36.31	$31.87	$225.44	$194.07	$148.85	$54.92	$50.94	$42.60
Avg. Gross Revenue per MCF Sold	(4)	$5.68	$5.68	$4.81	$4.00	$4.12	$3.31	$4.88	$5.01	$4.20

Notes: 1) Sales MCF/Average number of customers
2) Gross Revenues/Average number of customers
3) Average Annual Bill per Customer/12 months
4) Gross Revenues/Sales MCF

*Sales customers only

Does not include transportation gas

New Mexico Public Utility Commission

TABLE 5
Water Utility Statistics

Customer Class		Residential			Other			Total		
Calendar Year		1990	1991	1992	1990	1991	1992	1990	1991	1992
Total Average Number of Customers		61,205	61,906	64,634	5,434	5,482	5,650	66,639	67,388	70,284
Sales (Thousands of Gallons, MG)		7,163,714	8,909,022	9,857,700	4,373,600	5,405,936	4,226,986	11,537,314	14,314,958	14,084,686
Gross Revenues		$18,669,829	$19,023,224	$20,053,948	$9,792,278	$9,731,399	$9,961,694	$28,462,107	$28,754,623	$30,015,641
Avg. Annual MG per Customer	(1)	117	144	153	805	986	748	173	212	200
Avg. Annual Bill per Customer	(2)	$305.04	$307.29	$310.27	$1,802.04	$1,775.15	$1,763.13	$427.11	$426.70	$427.06
Avg. Monthly Bill per Customer	(3)	$25.42	$25.61	$25.86	$150.17	$147.93	$146.93	$35.59	$35.56	$35.59
Avg. Gross Revenue per MG Sold	(4)	$2.61	$2.14	$2.03	$2.24	$1.80	$2.36	$2.47	$2.01	$2.13

Notes: 1) Sales MG/Average number of customers
2) Gross Revenues/Average number of customers
3) Average Annual Bill per Customer/12 months
4) Gross Revenues/Sales MG

New Mexico Public Utility Commission

TABLE 6
Sewer Utility Statistics

Customer Class		Residential			Other			Total		
Calendar Year		1990	1991	1992	1990	1991	1992	1990	1991	1992
Total Average Number of Customers		14,292	14,689	15,276	506	502	511	14,798	15,191	15,787
Gross Revenues		$2,743,566	$2,925,937	$2,862,697	$825,250	$874,493	$1,059,358	$3,568,816	$3,800,431	$3,922,055
Avg. Annual Bill per Customer	(1)	$191.97	$199.19	$187.40	$1,630.93	$1,742.02	$2,073.11	$241.17	$250.18	$248.44
Avg. Monthly Bill per Customer	(2)	$16.00	$16.60	$15.62	$135.91	$145.17	$172.76	$20.10	$20.85	$20.70

Notes: 1) Gross Revenues/Average number of customers
2) Average Annual Bill per Customer/12 months

TABLE 7
NUMBER OF COMPLAINTS
July 1, 1992-June 30, 1993

Utility Type	Service	Tariff	Billing	Danger	Miscellaneous	Total
Investor-Owned Elec.	120	79	75	0	215	489
Investor-Owned Natural Gas	50	70	49	3	34	206
Rural Electric Coop.	94	30	45	1	27	197
Investor-Owned Water	46	45	31	0	13	135
Water & Sanitation District	0	11	0	0	0	11
Sewer	2	8	0	0	0	10
Submetering	2	0	1	0	1	4
Uncertified or No Jurisdiction	7	2	2	0	3	14
TOTAL	321	245	203	4	293	1066

New Mexico Public Utility Commission
Available Brochures

The New Mexico Public Utility Commission publishes brochures to help the public understand the functions of the Commission, their own utility bills, and what steps can be taken to conserve energy. The brochures available upon request are:

- Utility Ratemaking and the New Mexico Public Utility Commission
- Lo Que Es y Como Funciona
- Tarificacion y la Comision de Servicio Publico de Nuevo Mexico
- Derechos del Consumidor y Responsabilidades "La Carta de Derechos del Consumidor"
- Comprendiendo su Cuenta de Servicio Publico
- Utility Consumer Handbook

For copies or further information, please contact:

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